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Commission to devise a plan for  
the government of cities

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# REPORT

OF THE

## Commission to Devise a Plan for the Government of Cities

IN THE

STATE OF NEW YORK.

TRANSMITTED TO THE LEGISLATURE MARCH 6, 1877.



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1877.



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# STATE OF NEW YORK.

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No. 68.

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## IN ASSEMBLY,

March 6, 1877.

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### REPORT

OF THE COMMISSION TO DEVISE A PLAN FOR THE GOVERNMENT OF CITIES IN THE STATE OF NEW YORK.

ALBANY, N. Y., *March 6, 1877.*

Hon. GEORGE B. SLOAN, *Speaker of the Assembly:*

SIR.—In obedience to the instructions of the commission to devise a plan for the government of cities in the State of New York, I have the honor to hand to you herewith the report of said commission.

I am, sir, very respectfully,

Your obedient servant.

SIDNEY DEKAY,

*Secretary.*



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## REPORT.

*To the Senate and Assembly of the State of New York:*

The undersigned, commissioners appointed by the Governor of this State, pursuant to a concurrent resolution of the Senate and Assembly, passed May 22, 1875, to devise a plan for the government of cities, and to report the same to the Legislature, respectfully present the following report :

### ORIGIN OF THE COMMISSION.

The Governor, in a special message, communicated to the Legislature May 22, 1875, called attention to the evils of our municipal systems, and the necessity of adopting a permanent and uniform plan for the government of the cities of the State, and recommended the appointment of a commission to consider the subject.

On the same day a concurrent resolution was introduced in the Senate and adopted by the Senate and Assembly, which was in these words :

" *Whereas,* The Governor, in his special message of May eleventh, eighteen hundred and seventy-five, called the attention of the Legislature to the evils arising from our unstable municipal systems, and the necessity of adopting a permanent and uniform plan for the government of the cities of the State ; therefore

" *Resolved* (if the Assembly concur), That the Governor be, and hereby is, authorized to appoint a commission of not more than twelve persons, whose duty it shall be to consider the subject referred to in said message, to devise a plan for the government of cities, and to report the same to the next Legislature.

" *Resolved*, That the Committee on Ways and Means report a suitable appropriation to defray the actual expenses of the commission, to be audited by the Comptroller, provided that the commission shall receive no compensation for their services."

Twelve persons were appointed by the Governor under the above resolution, all of whom except President Martin B. Anderson, of Rochester, accepted the duty thus devolved upon them.

The commission organized immediately after their appointment, and the first meeting was held on the fifteenth day of December, 1875. Mr. William M. Evarts was chosen president of the commission. It seemed necessary to have the aid of some suitable person, not a member of the commission, to keep the minutes of the proceedings, conduct the correspondence, and have charge of the

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documents of the body, and for this purpose, Mr. Sidney DeKay, of New York, was selected.

### ITS WORK.

The commission proceeded at once with the performance of their task by assigning to the several members the duty of making investigations and reports upon particular branches of the general subject of municipal government. They hoped to be able to bring their labors to a conclusion in season to present their report to the Legislature of 1876; but they were of the opinion that but little value could be attached to the recommendations of any such body, unless preceded by the most deliberate consideration; and such was the magnitude of the subject with which they had to deal, the difficulties with which it was at every turn beset, and the earlier diversity of opinion among themselves, that they found it impossible to accomplish their work before the adjournment of 1876; and the Legislature of that year extended the time for the making of their report to the present session.

Notwithstanding the devotion, since that period, of more time than before to their task, it has been necessarily protracted to the present moment. It is now completed, and it becomes the present duty of the commission to submit to your honorable bodies the results of their labors, together with an explanation of their recommendations, and a statement of the grounds and reasons upon which they are founded.

The message of Governor Tilden, of May 11, 1875, which led to the creation of this commission, treats, at length, of the history and present condition of the governments of our cities, especially that of the city of New York; of the mischiefs and public burdens, both of debt and taxation, under which these communities now labor; and of the wide departures from sound principles of local government which have marked the recent administration of the affairs of the metropolis. The concurrent resolution makes it the duty of this commission "to consider the subject referred to in said message, to devise a plan for the government of cities, and to report the same."

The purpose, therefor, of the Legislature, in passing the resolution, seems plainly to have been to submit the whole subject of the local government of cities to that deliberate review which can, it may be supposed, be best given to it by a small number of persons specially delegated for that purpose, to the end that some plan of administration may be devised which may commend itself as furnishing the promise of a permanent improvement.

### THE EVILS EXISTING IN THE GOVERNMENTS OF CITIES.

The first step to be taken is a consideration of the evils which infest the administration of our city governments. No statement or illustration of these is requisite to a conviction of their existence. A clear perception, however, of these evils and of their origin, causes, connections and results is indispensable to any useful contrivance for

their redress. It will tend to distinctness, in this respect, to begin the statement with the last results of bad administration as they reach and become burdens upon the citizen; and afterwards point out the causes which produce them.

FIRST. *The accumulation of permanent municipal debt.*—The rapid advances in this direction made within recent years are alarming. The amount of the permanent debt of the several cities of this State, embracing in round numbers a population of 2,000,000, is upwards of \$170,000,000, the annual interest upon which probably exceeds \$11,000,000. The whole amount appropriated for carrying on the government of the State in 1875, exclusive of sums appropriated to extinguish debt, was less than \$9,000,000—much less than the sum which the cities of this State are compelled to raise to pay the interest on their local debts. Much the larger part of this burden is the growth of recent years. The enormous debt of the city of New York is especially deserving of attention. It is at present, after deducting the sinking fund, upward of \$113,000,000, and without deducting that fund, upward of \$140,000,000. The appropriation for the present year to pay the interest thereon is upward of \$9,000,000; an amount exceeding the entire sum requisite to defray all the expenses of the State government for the present year, and exceeding the entire expenditure of the city and county of New York for a year so recent as 1860, when the city had a population of 800,000.

The magnitude of this debt is even less alarming than the rapidity of its recent increase. In 1840, the debt of the city was about \$10,000,000. In 1850, about \$12,000,000; an increase during the decade of about twenty per cent. In 1860 it was upward of \$18,000,000, an increase of fifty per cent. In 1870 it was upward of \$73,000,000, an increase of nearly 400 per cent; and in the six years which have since elapsed, it has been swollen by the enormous addition of \$40,000,000. It is proper to say that this last increase is, in large measure, due to the funding of a preceding floating debt of upwards of \$20,000,000; a legacy from the corrupt cabal overthrown in 1871, and which, or most of which, ought to be added to the amount of the debt, as above stated, in 1870.

The magnitude and rapid increase of this debt are not less remarkable than the poverty of the results exhibited as the return for so prodigious an expenditure. It was abundantly sufficient for the construction of all the public works of a great metropolis for a century to come, and to have adorned it besides with the splendors of architecture and art. Instead of this, the wharves and piers are, for the most part, temporary and perishable structures; the streets are poorly paved; the sewers in great measure imperfect, insufficient and in bad order; the public buildings shabby and inadequate, and there is little which the citizen can regard with satisfaction, save the aqueduct and its appurtenances and a public park. Even these should not be said to be the product of the public debt; for the expense occasioned by them is, or should have been, for the most part, already extinguished. In truth, the public debt of the

city of New York, or the larger part of it, represents a vast aggregate of moneys wasted, embezzled or misapplied.

SECOND. *The excessive increase of the annual expenditure for ordinary purposes.* — This evil is of similar character to the one already dealt with, and points to like disastrous results. It would too greatly extend the length of this report to present, under this head, the statistics of the various cities of the State, as they are exhibited in the statement annexed to the special message of the Governor; but the example of the metropolis may be again referred to. There is a fitness in such reference arising from the consideration that New York city embraces one-half the urban population, and something approaching one-half in value of the entire property of the State. Any measure, therefore, that may be devised for improving the administration of cities would be wholly insufficient unless it furnished a remedy for the abuses of misgovernment in that city. It is believed, moreover, that an increase in the annual expenditure similar to that which has there taken place characterizes the financial history of all the cities of the State. Such increase has not, at least in most of them, kept pace with that of the metropolis; but it is everywhere sufficient to justify the gravest attention.

Going back through a period of fifty years, we find that in 1816, when New York had a population of upward of 100,000, and taxable property to the amount of \$82,000,000, the amount raised by taxation was \$344,802.44, considerably less than one-half of one per cent. Twenty years later, in 1836, the population had increased to upward of 270,000, and the taxable property to upward of \$309,000,000. The amount raised in that year was \$1,085,130.44, which was but thirty-five one-hundredths of one per cent. The debt at that time was \$1,282,103.58, and the amount requisite to pay the interest upon this did not much exceed \$72,000. In the sixteen subsequent years, down to 1850, the population rapidly increased, and the amount raised by tax to defray ordinary expenditures increased somewhat more rapidly. In the last mentioned year, with a population of 515,000, the tax levy was \$3,230,085.02. The property, however, as valued for taxation, had not increased; indeed the estimate was less, being something over \$286,000,000, and consequently the rate of taxation on that estimate was 1.13 per cent. The debt had risen to upward of \$12,000,000, and consequently made a draft upon the annual tax levy of upward of \$700,000.

During the decade between 1850 and 1860 the increase was more rapid. In the latter year, with a population of 814,000, a tax levy of \$9,758,507.86 was ordered; an increase of 300 per cent above that of 1850; and notwithstanding that the valuation of property had in the same period doubled, so as to amount to upward of \$576,000,000, the rate increased from 1.13 per cent in 1850 to 1.69 in 1860. At the same time the debt increased upward of \$6,000,000, amounting in the year last named to upward of \$18,000,000. Observers of the local government and politics of the metropolis, during this period, will remember that it was the time when the local man-

agers first organized on a large scale their schemes to control, through compact political arrangements, the management and distribution of the revenues of the city, which then amounted to so large a sum; and it may be said that from that time to the present, with the exception of one short but memorable period, the disposition of these revenues has remained substantially in the hands of the chiefs of trained political organizations, which are mainly supported, in some form or other, from this fund. When we consider what the nature of this guardianship is, it should not excite surprise that, at the close of the next decade after 1860, the annual burden had risen to the enormous figures of \$23,361,674, compelling a levy of 2.17 per cent of the entire property of the city; while during the same period the debt had also risen from eighteen to seventy-three millions. As already mentioned, this statement of the increase of the debt is far beneath the fact, for upon the overthrow, in 1871, of the corrupt officials then in the possession of every branch of the city government, there was found an existing floating indebtedness of some twenty millions more, to pay which bonds were subsequently issued, and which constitute a large part of the subsequent increase of the bonded debt. Since the year 1871 there has been, on the part at least of some of the city officials, an earnest endeavor, which is still continued, to arrest the further increase of the debt, and to cut down the annual expenditure; but these efforts, though very useful, have been counteracted by the want of general co-operation on the part of all officers, by the ruinous condition in which the preceding government had left the affairs of the city, and by the existence of laws enacted by the Legislature permitting, if not requiring, extensive so-called improvements to be carried on, the expense to be defrayed by the further issue of bonds.

We, therefore, find that at the beginning of the present year, 1877, the debt of the city had increased to the amount of \$113,000,000, and the total amount of the tax levy ordered for the year 1877 is \$28,484,269.44, which requires a rate of taxation of 2.67 per cent upon the amount of taxable property. In addition to this, there is also appropriated out of the general resources of the city, receivable in 1877 from other sources than taxation, the sum of \$2,500,000, which makes the amount of estimated expenditure \$30,984,269.48.

It is important to know how much of this vast sum is devoted to ordinary objects of annual expenditure.

Whole amount appropriated.....	\$30,984,269 48
Deduct State taxes.....	\$2,658,900 00
" interest on debt, with install- ment of principal.....	9,176,501 73
" for redemption of special parts of debt.....	1,545,467 78
	_____
	13,380,869 51
Amount applicable to annual expenditure.....	\$17,603,399 97

These figures are most significant. In 1810, with a population of nearly 100,000 and a taxable valuation of \$25,000,000, the amount of ordinary expenditure was but \$129,727.15, or about one-half of one per cent upon the valuation, and about \$1.25 for each inhabitant. This was a period of regularity and economy. Twenty years later, in 1830, when the population had increased to 202,000 and the taxable property to upward of \$125,000,000, the annual expenditure was \$509,178.44, about two dollars to each inhabitant, and an actual decrease of the rate of tax. Twenty years later, in 1850, we reach a period when, as the annals of the metropolis at that time, and the recollections of those yet living, who were then familiar with its affairs, will attest, a marked decline had occurred, through a great deterioration in the standing and character of the city officers, bringing with it waste, extravagance and corruption. Still, with a population at that time of upward of half a million, and taxable property of upward of \$286,000,000, two and a half millions sufficed for the ordinary annual expenditure, exclusive of interest upon debt, but including all State taxes. This was five dollars for each inhabitant, and called for a tax rate of less than one per cent.

It thus appears that the present annual expenditure for the purposes of ordinary administration, exclusive of interest upon debt, as exhibited by the annual estimate for the purpose of determining the tax levy, amounts to more than twenty millions of dollars, or about twenty dollars for each inhabitant, and requires a tax rate of nearly two per cent upon the present valuation of taxable property.

But this apparent increase of the annual expenditure, as shown by the annual appropriations, is far less than the actual increase. Enormous sums are every year exacted from the property owners in the form of special assessments upon property assumed to be specially benefited, which do not appear in any form in the present general budget. The sums thus expended are for the opening, regulating, grading and paving of streets, and the construction of sewers, etc., etc. Inasmuch as this expenditure is not an annual, but a continuous one, the yearly amount cannot be stated. It is safe, however, to say, that taking the period of the past ten years, it has been equivalent to a yearly sum of millions of dollars. Some of this expenditure is fairly to be carried to the account of capital, as being a permanent improvement of property; but a very large part of it belongs to the account of ordinary repairs, and swells the true statement of the present annual expenditure to a far greater sum than is above set down.

We are thus confronted with the alarming fact that the increase in the annual expenditure since 1850, as compared with the increase of population, is more than 400 per cent; and as compared with the increase of taxable property, more than 200 per cent. Some allowance is doubtless to be made for the more complete provision now made for the public wants, and for the inferior value of the currency in which our present expenditure is stated; but this consideration does not affect the ratio of taxation to the value of the property taxed, nor defeat the conclusion that we have, during the past

twenty-five years, not only made a wide departure from the economy of earlier and better days, and have outrun all former examples of wastefulness, extravagance and corrupt administration.

The significance of this rapid increase of debt and taxation must not be overlooked or misapprehended ; nor its certain consequence, if not arrested.

But the deplorable financial condition of our principal cities, to which we have given such prominence, has causes, a clear perception of which must precede any intelligent action in contriving remedies. We desire to avoid in this division of our subject, so far as possible, all matters upon which differences of opinion are likely to arise, and shall therefore refer, not to the more remote, and, perhaps, fundamental causes, but to those which are direct, immediate and palpable, the operation of which can be clearly pointed out.

#### CAUSES OF THE EXISTING EVILS.

FIRST. *Incompetent and unfaithful governing boards and officers.*—We place at the head of the list of evils under which our municipal administration labors, the fact that so large a number of important offices have come to be filled by men possessing little, if any, fitness for the important duties they are called upon to discharge. This fact will hardly be questioned by any intelligent observer. We do not mean that great merits and devotion to public duty are not in many instances, here and there and from time to time, exhibited in public station. But we do mean that there is a general failure, especially in the larger cities, to secure the election or appointment of fit and competent officials. The selection of fit and competent officers is not sought in the practices which have long been in vogue, and which for the most part actually govern in the choice of municipal officers. It can hardly be expected, therefore, that such will be secured.

The various forms of mischief resulting from a public service thus filled are numberless ; but they uniformly present the common feature of increasing either debt or taxation, or both. These unworthy holders of public trusts gain their places by their own exertions. The voluntary suffrage of their fellow citizens would never have lifted them into office. Animated by the expectation of unlawful emoluments they expend large sums to secure their places and make promises beforehand to supporters and retainers to furnish patronage or place. The money expended to secure election must be paid. The corrupt promises must be redeemed. Anticipated gains must be realized. Hence, old and educated subordinates must be dismissed, and new places created to satisfy the crowd of friends and retainers. Profitable contracts must be awarded and needless public works must be undertaken. The forms of law are evaded, or shaped for the purpose of conferring the patronage upon favorites ; and the various departments of administration, instead of striving to make the burden of government as light as possible, engage in a contention to draw within their own control the largest possible part of the public resources. The amounts required to satisfy these illegitimate objects

enter into the estimates upon which taxation is eventually based; in fact they constitute, in many instances, a superior lien upon the moneys appropriated for government, and not until they are in some manner satisfied, do the real wants of the public receive attention. It is speedily found that these unlawful demands, together with the necessities of the public, call for a sum, which, if taken at once by taxation, would produce dissatisfaction and alarm in the community, and bring public indignation upon the authors of such burdens. For the purpose of averting such consequences, divers pretenses are put forward suggesting the propriety of raising means for alleged exceptional purposes by loans of money, and in the end the taxes are reduced to a figure not calculated to arouse the public to action, and any failure thus to raise a sufficient sum is supplied by an issue of bonds.

It may be thought that this picture of mal-administration is over-drawn. We believe it to be a just one—not, indeed, of the administration of all our cities, or of the administration of any of these—at all times. But it fails altogether to convey an adequate notion of the elaborate systems of depredation, which, under the name of city governments, have from time to time afflicted our principal cities; and it is, moreover, a just indication of tendencies in operation in all our cities, and which are certain, unless arrested, to gather increased force, and from time to time to develop to an excessive degree. It would be clearly within bounds to say that more than one-half of all the present city debts are the direct results of the species of intentional and corrupt misrule above described.

But were we to leave out of view the existence of corrupt purposes, the share of public burdens and mischiefs properly chargeable upon incompetent and unfaithful officials would not be diminished. It would only oblige us to say that the present volume of debt and excessive rate of taxation has been brought about by incompetence and neglect, instead of by corruption and fraud. This neither diminishes the evil, affects the conclusion as to the source from which it proceeds, nor lessens the necessity for a remedy. The exclusion of positive fraud and corruption from civil business is by no means sufficient to secure good administration. Human affairs nowhere take care of themselves. The necessary conditions of thrift in public as well as private business are the present care, attention and skill of those who feel that their personal interests are directly involved in its successful management. We do not believe that, had the cities of this State during the last twenty-five years had the benefit of the presence in the various departments of local administration of the services of competent and faithful officers, the aggregate of municipal debts would have amounted to one-third of the present sum, nor the annual taxation one-half of its present amount; while the condition of those cities in respect to existing provisions for the public needs would have been far superior to what is now exhibited. It may be regarded as certain that unless some means be adopted to secure, not occasionally and by special and spasmodic popular effort, but permanently and in the natural and

regular course of affairs, a better class of city officers, the experience of the past twenty-five years will be repeated in the next, possibly, not with such an enormous increase of debt and taxation, but the tendency will be in the same direction, and the evils under which we suffer will not be substantially arrested.

*SECOND. The introduction of State and national politics into municipal affairs.*—This practice of our times stands next in the order of priority as a source of mischief. We assign this distinction to it, not so much because it is an evil in itself, but because in the mischievous use which is made of it, a use which cannot be prevented, it becomes the most potent means by which all efforts to improve the character of the municipal service at popular elections are frustrated. It is the most fruitful source of the prime evil already dealt with, namely, the presence in the civil service of incompetent and unfaithful officers.

Party divisions arise, or, at least, properly arise, only when men differ in respect to some general principles or methods of State policy. Differences exist as to the extent of the respective powers of the national and State governments, as to the expediency of free trade, as to the extent to which government should limit individual liberty, as to the general methods of administering the large concerns of our national and State governments; and similar questions which can be settled only by the triumph of one or the other of the contending parties. The formation of general parties upon such questions is useful, or, at all events, inevitable. But it is rare, indeed, that any such questions, or any upon which good men ought to differ, arise in connection with the conduct of municipal affairs. Good men cannot and do not differ as to whether municipal debt ought to be restricted, extravagance checked, and municipal affairs lodged in the hands of faithful and competent officers. There is no more just reason why the control of the public works of a great city should be lodged in the hands of a democrat or a republican, than there is why an adherent of one or the other of the great parties should be made the superintendent of a business corporation. In the case of the latter, the sole purpose of the parties interested is to secure the services of the best man, and the best man is consequently secured. Good citizens, interested in honest municipal government, can secure that only by acting together. Political divisions separate them at the start, and render it impossible to secure the object desired equally by both. This truth is naturally recognized in every emergency, when, by reason of startling abuses in municipal affairs, the community is aroused to the necessity for a change in local officers. A general out-cry is at once raised calling upon citizens to act independently of party, and, sometimes, although rarely, the shackles are thrown off and success is achieved. This obstacle to the union of good citizens should not exist. It paralyzes all ordinary efforts for good municipal government.

The motives which lead to a pushing of these general political divisions to their present mischievous extremes should be clearly

comprehended. They are exceedingly powerful, and will not yield to ordinary resistance :

1. The great prizes, in the shape of place and power, which are offered on the broad fields of State and national polities, offer the strongest incentives to ambition. Personal advancement is, in these fields, naturally associated with the achievement of great public objects, and neither end can be secured except through the success of a political party to which they are attached. The strife thus engendered develops into a general battle in which each side feels that it cannot afford to allow any odds to the other. If one seeks to turn to its advantage the patronage of municipal office, the other must carry the contest into the same sphere. It is certain that the temptation will be withheld by neither. It thus becomes the direct interest of the foremost men of the nation to constantly keep their forces in hostile array, and these must be fed by, among other ways, the patronage to be secured by the control of local affairs. The concerns which fill the imaginations of ambitious men are deemed supreme, and sufficient to justify the partial sacrifice of subordinate and local interests. This is a grave error, engendered by the existing political conditions of city government arrangements.

2. Next to this small number of leading men, there is a large class who, though not dishonest or devoid of public spirit, are led by habit and temperament to take a wholly partisan view of city affairs. Their enjoyment of party struggles, their devotion to those who share with them triumphs and defeats of the political game are so intense, that they gradually lose sight of the object for which parties exist, or ought to exist ; and considerable proportions of them, in their devotion to polities, suffer themselves to be driven from the walks of regular industry, and at last become dependent for their livelihood on the patronage in the hands of their chiefs. Mingled with them is nearly as large a number to whom politics is simply a mode of making a livelihood, or a fortune, and who take part in political contests without enthusiasm, and often without the pretense of interest in the public welfare, and devote themselves openly to the organization of the vicious elements of society, in combinations strong enough to hold the balance in a closely contested election, overawe the political leaders, and secure a fair share of the municipal patronage, or else extort immunity from the officers of the law.

3. The rest of the community, embracing the large majority of the more thrifty classes, averse to engaging in what they deem the "low business" of polities, or hopeless of accomplishing any substantial good in the face of such powerful opposing interests, for the most part content themselves with acting in accordance with their respective parties. When a municipal election occurs, most of them easily persuade themselves that, as the only question is, which of the two parties is to have the control of local affairs, it is, of course, best that such control should be lodged with their own ; and it is some satisfaction to them, when no other good can be achieved, to gain a small political triumph. Others, troubled with the sense that a duty is imposed upon them to vote for meritorious candidates feebly

and vainly labor on the morning of the election to discriminate between the respective merits of obscure contestants. Some few rise to the virtue of seasonable inquiry, and congratulate themselves upon the performance of the solemn duty of replacing a notoriously unworthy name, by some selection of their own. The usually meager return of scattering votes is the measure of the efficiency of this class of citizens.

It is through the agency of the great political parties, organized and operating as above described, that our municipal officers are, and long have been selected. It can scarcely be matter of wonder, then, that the present condition of municipal affairs should present an aspect so desperate.

THIRD. *The assumption by the Legislature of the direct control of local affairs.*—This legislative intervention has necessarily involved a disregard of one of the most fundamental principles of republican government. We entertain no doubt that this intervention has greatly aggravated the evils which it was, in many instances, designed to remove. There are some established truths relating to this subject of which the public needs to be reminded in order to perceive what a wide and dangerous departure from sound methods of government is thus made.

Our existing system of national and State government stands fully accepted by us as the most perfect, and, practically, the best adapted to our wants. In any effort, therefore, to cure incidental evils arising from defects in the details of the structure, we should take care not to disturb the foundations or endanger its perpetuity.

The system of government by municipalities is inherent in our free institutions. In separate communities existing as integral parts of the commonwealth, but having local interests which immediately concern themselves rather than the State at large, the instinct of self-government has always asserted itself in some way as the basis of their organic life. From this vital germ have sprung the municipalities which in every civilized State have claimed and exercised the right, sometimes granted as a concession of sovereign power and sometimes extorted by superior force, of administering law and government in respect to their local affairs, while retaining their allegiance as members of the whole nation. This element of local administration in local affairs entered into the framework of our constitutional government at the outset, and was the most marked characteristic of the national life, reproduced and existing in this State and in most of the States of the Union at the time of the establishment of their independence. De Tocqueville, than whom no observer has been better qualified to compare the arrangements of this country with those of Europe, was greatly impressed with the town institutions of New England. He regarded them as the real foundation of American liberty. "Assemblies of citizens," he says, "constitute the strength of free nations. Municipal institutions are to liberty what primary schools are to science—they bring it within the people's reach; they teach men how to use and how to enjoy it. A nation may establish a system of free government, but without

the spirit of municipal institutions it cannot have the spirit of liberty."

The line which separates the functions of the central legislature from those which should be discharged by local government boards is sufficiently distinct. Whatever concerns the rights of all the citizens of the State in respect either of person or of property, belongs to the central authority, which is also charged with the duty of devising uniform plans by which the affairs of the various local divisions of the State may be administered by the people of those divisions. The representatives elected to the central legislature are chosen expressly for the purpose of attending to these general duties.

There are obvious reasons why they ought not to be charged with the direction of the local affairs of the municipalities :

1. They have not the requisite time. When the importance and variety of their duties in respect to the improvement and amendment of the general body of the laws, the correction of general evils, the conduct of the great public works of the State, and the administration of the various departments of the State government, are considered, no one will think that they are not sufficiently burdened with these duties, or that they can have any sufficient leisure to devote to the special affairs of particular localities.

2. They have not the requisite knowledge of details. Whether it is best in any particular city to open a street or avenue, or construct an aqueduct, or any other public work requiring the expenditure of money, cannot be determined without an accurate knowledge of the affairs of the locality — of the extent of present accommodation — of the demand for increased facilities — of the actual wishes of the inhabitants — of the extent of existing public burdens, and of a variety of other details, which are usually possessed only by residents of the locality.

Consequently, when a local bill is under consideration in the Legislature, its care and explanation are left exclusively to the representatives of the locality to which it is applicable, and sometimes by express, more often by tacit, understanding, local bills are "log-rolled" through the houses. Thus legislative duty is delegated to the local representatives, who, acting frequently in combination with the sinister elements of their constituency, shift the responsibility for wrong-doing from themselves to the Legislature.

3. But, what is even more important, the general representatives have not that sense of personal interest and personal responsibility to their constituents, which are indispensable to the intelligent administration of local affairs. And yet the judgment of the local governing bodies in various parts of the State, and the wishes of their constituents, are liable to be overruled by the votes of legislators living at the distance of a hundred miles.

These considerations lead to the conclusion that the original election or appointment of all local governing bodies, the duty of watching or checking them, and the duty of providing, or the discretion of withholding, the supplies necessary for the operations, should rest, not with the central legislature, but with the people of the locality.

It would, indeed, seem scarcely necessary to argue against this exercise by the State Legislature of inappropriate functions, when it stands deliberately condemned, not only by the conclusions of all thoughtful writers upon republican government, but by the people themselves in the Constitution under which we now live.

Among the mischievous consequences which flow from this vicious practice, we may further mention the following:

4. The occupation of the central legislative body with the consideration of a multitude of special measures relating to local affairs, some good, probably the larger part bad, pressed upon their attention by those specially interested in them. The time which should be devoted to the thorough consideration of measures affecting the general laws and policy of the State is invaded and wasted, to the manifest injury of those general interests which it is the exclusive province of the Legislature to defend. To this cause are to be ascribed the haste, error and imperfection which have characterized much of our recent legislation upon all subjects, and which will continue to characterize it until the Legislature restricts its action within its true limits.

To appreciate the extent of the mischief in this direction, one has only to take up the Session Laws of any year, at random, and notice the subjects to which they relate. Of the 808 acts passed in 1870, for instance, 212 are acts relating to cities and villages, ninety-four of which relate to cities, and thirty-six to the city of New York alone. A still larger number have reference to the city of Brooklyn. These 212 acts occupy more than three-fourths of the two thousand pages of the laws of that year. If the time requisite for the members of the Legislature to comprehend their provisions and acquire the information necessary to form a judgment concerning the expediency of adopting them had been given to the work, the entire session would hardly have sufficed for the purpose.

The multiplicity of laws relating to the same subjects, thus brought into existence, is itself an evil of great magnitude. What the law is concerning some of the most important interests of our principal cities, can be ascertained only by the exercise of the patient research of professional lawyers. To the citizen it is a sealed book. The officers who are called upon to administer it are bewildered in the mazes of conflicting enactments. In many instances even professional skill is baffled. Upon this point we may refer to a very recent declaration of the first judicial officer in the State. Says Chief Justice Church (62 New York Reports, p. 459): "It is scarcely safe for any one to speak confidently of the exact condition of the law in respect to public improvements in the cities of New York and Brooklyn. The enactments in reference thereto have been modified, superseded and repealed so often and to such an extent that it is difficult to ascertain just what statutes are in force at any particular time." The uncertainties arising from such multiplied and conflicting legislation lead to incessant litigation, with all its expensive burdens, public and private. When we reflect upon these manifold mischiefs and the heavy tax thus imposed upon the public

in paying the expenses of prolonged legislative sessions, and supporting judicial tribunals to dispose of the great volume of litigation thus occasioned, we are justified in pronouncing legislative interposition in the affairs of cities as an evil of the first magnitude.

5. But this is not all, nor the worst. It may be true that the first attempts to secure legislative intervention in the local affairs of our principal cities were made by good citizens in the supposed interest of reform and good government, and to counteract the schemes of corrupt officials. The notion that legislative control was the proper remedy, was a serious mistake. The corrupt cliques and rings thus sought to be baffled were quick to perceive that in the business of procuring special laws concerning local affairs, they could easily outmatch the fitful and clumsy labors of disinterested citizens. The transfer of the control of the municipal resources from the localities to the Capitol had no other effect than to cause a like transfer of the methods and arts of corruption, and to make the fortunes of our principal cities the traffic of the lobbies. Municipal corruption, previously confined within territorial limits, thenceforth escaped all bounds, and spread to every quarter of the State. Cities were compelled by legislation to buy lands for parks and places because the owners wished to sell them; compelled to grade, pave and sewer streets without inhabitants, and for no other purpose than to award corrupt contracts for the work. Cities were compelled to purchase, at the public expense and at extravagant prices, the property necessary for streets and avenues, useless for any other purpose than to make a market for the adjoining property thus improved. Laws were enacted abolishing one office and creating another with the same duties, in order to transfer official emoluments from one man to another; and laws to change the functions of officers with a view only to a new distribution of patronage, and to lengthen the terms of offices for no other purpose than to retain in place officers who could not otherwise be elected or appointed.

If any one questions the mischievous results of these practices he has but to note the increase of debt and taxation in the city of New York from 1860 to the present time, during which legislative intervention in the local affairs of that city has been most extensively asserted. The debt has increased from eighteen millions to one hundred and thirteen millions; and taxation for annual expenditures from nine to twenty-eight millions.

#### REMEDIES OF THE EVILS ENUMERATED.

We now approach the specific task set before this commission, namely, the methods of redress and reformation.

It will narrow the field of inquiry here, if we first exclude those schemes of improvement, sometimes suggested, which offer no assurance of effective relief, because they deal with the symptoms rather than the disease, such as—

1. A carefully contrived system of laws for the punishment of neglect or unfaithfulness in municipal officers. This remedy is one of the first to suggest itself. The present difficulty, however, does

not consist in the want of adequate penal laws, but in the lack of ability to enforce those which now exist. When unscrupulous men obtain the control of the local administration, and revenues of a community, the control of the local administration of justice is apt to follow as a consequence. But, without this, the unwillingness to excite the hostility of political leaders by a public prosecution, the difficulties of proof, the delays and defeats incident to all judicial proceedings, deprive this remedy of all virtue. Penal laws, however severe or well framed, never correct the mischiefs of bad systems of government. Their object is to repress, by the example of punishment, the occasional abuses in the administration of good systems.

2. The immediate control of local affairs by the Legislature. It is needless to bestow further consideration upon this plan. As already pointed out, its sure result is to aggravate the mischiefs sought to be removed. Instead of elevating the character of the local governing bodies, this practice, by depriving them of their most important functions, and inducing the belief that it is of little importance to make special efforts to elect faithful and intelligent local guardians, leads directly to still further deterioration and decline.

3. The withdrawal of power from local governments, or the limitations of it by positive enactments. Hopeless of finding any other method of arresting the increase of debt and taxation of cities, some have proposed that the increase of debt beyond a certain prescribed amount should be absolutely prohibited and taxation limited to a specified ratio. This is the principle embodied in a proposed constitutional amendment which received the sanction of the Legislature at its last session. Upon mature consideration, we are of opinion that this expedient is not a remedial measure, and that its incorporation in the Constitution would be an error. The apparent prohibition, both as to taxation and the percentage of debt, could be readily evaded by raising the assessed value to which the ratio of taxation and of debt would apply. Such restrictions do not attempt to prevent wastefulness or embezzlement of the public funds in any other way than by limiting the amount of the funds subject to depredation. The effect of such measures would simply be to leave the public necessities without adequate provision.

4. The opposite suggestion, namely, wholly to deprive the Legislature of the power of intervention, is equally inadmissible. Should this be done, and nothing else, the cities of our State would be left entirely unprotected against those evil agencies which have seemed, in many instances, to make a resort to the central authority absolutely necessary. It would not be possible, even in those cases of all-pervading corruption which, as they have already happened, may happen again, to obtain that summary relief which it is in the power of the Legislature to afford. We cannot ignore the lessons of the last twenty years, which teach that under our present municipal establishments, however mischievous the continual practice of Legislative intervention may be, the power of occasional resort to it may be absolutely necessary.

5. To confer very extensive powers upon the mayor. It has of

late years frequently been suggested that the corrective proposed by frequent popular elections fails of its intended effect, for the reason that under present arrangements there is such a division of powers, that the people are unable to discern the officials upon whom maladministration is really chargeable. The remedy suggested is to clothe the mayor with full authority to appoint and remove all the principal executive officers and then to vest in the officers so appointed the control of the business of raising and appropriating moneys. It is argued that under such civil arrangements the people could always hold the mayor responsible for wasteful or inefficient administration, and would be sure to apply the proper remedy by changing the head of the government.

We have no confidence in such a scheme. It finds no support in the established principles of popular representative government. The important functions of determining how much money shall be raised by tax and of its distribution among the various local objects and purposes are essentially discretionary, and the officers who are to exercise them should be sensible of no obligations, restraints or fears, except such as proceed from their convictions of the public welfare. Few men deserving of public confidence would accept such places at the hands of a master who could make and unmake them at pleasure.

But, more than this, the scheme suggested places the control of vast sums of money—in the city of New York, thirty millions of dollars—a larger revenue than that of some kingdoms—in the hands of a single man. No such control over the public resources is lodged even with the sovereign in any constitutional government. The disposition of such a fund, absolute when once gained, would become the contention, not so frequently of those who would prove faithful to the trust, as of those who sought it only to betray it.

The assumption that with frequent elections the people would very soon depose an unworthy chief officer, is altogether illusory. The master of the revenues and patronage of a million of people might not suffer himself to be displaced. The notion that the present failure of municipal elections to remove unworthy officers is mainly attributable to an inability to trace the responsibility for maladministration to its true source is erroneous. The real difficulty is that the mass of the citizens, however strongly they may be convinced of the necessity of a political change, are not willing to enter upon a campaign against thoroughly organized political combinations, for the reason that there is no sufficient prospect of success.

6. Civil service reform. However desirable it may be to introduce a reform which will change the methods of accession to minor political offices from that of political patronage to competitive examination, we are persuaded that, under existing circumstances, the intensity with which partisan strife is carried on within the limited area of a municipality forbids the hope of its successful introduction until the national and State government shall have set the example, and demonstrated the superiority of its methods.

Our municipal organization neither affords proper material for

examining boards, nor are the defects in the municipal clerical force at all important when compared with other mischiefs. This reform, therefore, as applied to cities, must appear as quite inadequate to reach the main evils that beset us. Hence, while leaving the Legislature free to adopt such civil service rules as in its discretion it may see fit, we have not made any special recommendations upon the subject.

7. The possibility of finding a corrective under our present system by increasing popular interest in the affairs of local governments. There are those who still insist that the sole remedy for the evils we are dealing with is to be found in further enlightening the mass of the population as to the effects of misgovernment upon their own concerns, and in arousing the public generally to the necessity of exercising greater watchfulness over local affairs, and exerting a united power at municipal elections.

It might be said, in answer to such suggestions, that the resolution creating this commission is itself an authoritative declaration of the insufficiency of this supposed corrective; and that this commission, which is instructed to devise a plan for the government of cities, need not occupy itself with suggestions which look to agencies for relief, independent of government.

The better answer, however, is, that experience has proved these agencies to be wholly inadequate. The theory of government under which rogues are permitted to gain possession of the public purse as an incentive to good men to turn them out, would not be altogether absurd, if a reasonable chance of success in baffling the reprobates were offered. But governments are not created for these, or other sentimental purposes. They are contrivances to furnish protection to the industrious citizen, to the end that he may be left to pursue his private avocations with the minimum expenditure of time and trouble in attention to public affairs. When these contrivances, instead of affording him this relief, become themselves the occasion of incessant watchfulness and enormous expense, they fail in their essential purpose.

In respect to the time and attention of the citizen, the same rule obtains as in respect to his income. It is only a certain share, and that comparatively small, of either, which, even in the most public spirited of communities, can, or will, be withdrawn from private purposes and devoted to the public. The people should not be called upon to make, in addition to the payment of burdensome taxes, a large sacrifice of time and labor to the unattractive task of protecting the community against the neglect or the fraud of those who are themselves appointed to be the public guardians, and liberally paid for their services. When this is necessary they abandon all earnest effort for improvement, and suffer extravagance, wastefulness and inefficiency to proceed unchecked. This is no small degree the actual condition of things at the present moment in our large cities.

Even citizens of unusual public spirit and resolution who still, notwithstanding the disheartening effect of unsuccessful efforts, continue to struggle against corrupt and inefficient local government,

acknowledge the fruitfulness of any effort for improvement through the regular instrumentality of popular elections. Hence we have societies for municipal reform, and similar voluntary combinations, which strive unceasingly by laborious investigations of the local administration and the publication of results, and by appeals to the Legislature, to repress the manifold evils which afflict the local communities. These efforts are a proof of the existence of public spirit and public virtue and at the same time a proof of the extent to which they are crippled in their endeavors. The activity thus exhibited should be sufficient to accomplish its end. If our local political systems afforded the opportunity they should afford to such activity, the evils thus struggled against would be removed by the correctives which frequent elections supply, and without the necessity for a resort to these extraneous methods.

We do not lightly regard the efforts of public spirited citizens to awaken and keep alive an active interest in public affairs. On the contrary, we view them as the main instrumentalities by which, under the existing system, the administration of our local governments can be preserved from utter disorder. The prime object of legislation upon local affairs should be to devise a system under which these agencies may operate with effect. No fear may be entertained that any scheme can be contrived so perfect as not to need the aid of all the vigilance of which the best of our communities can boast.

This commission do not apprehend that there will be any substantial difference of opinion upon the statements or conclusions thus far in this report set forth. The actual evils and burdens under which the people of our larger cities labor will not be deemed to have been exaggerated. The immediate causes to which they have been imputed will, we think, be admitted to be the true ones. The inefficiency of the various remedies to which reference has been made can scarcely be doubted.

The conclusion can no longer be resisted that our present course of local administration is based upon some fundamental errors which render it wholly inadequate to the government of cities, and that the work of amendment must begin at the very foundation of the structure.

#### PLAN OF THIS COMMISSION.

In dealing with the general subject committed to them, the commission was necessarily led into an extended survey and examination of the origin and nature of our existing municipal corporations; the relations which they sustain to the sovereign power of the State; the character and extent of the powers conferred upon them; and the mode in which those powers have been exercised and regulated, both in reference to the general functions of government and to those specially relating to the vital question of municipal expenditure, debt and taxation. This survey and examination led, at an early period, to the fundamental question, whether the general application of universal suffrage in the election of the local guardians and trustees of the financial interests of these public corporations was

in accordance with sound principles, or suitable to our present condition. Entertaining, however, a natural jealousy of any suggestion which might wear the appearance of a departure from the principles of American polity, they preferred to direct their first efforts toward the discovery of some mode of rearranging the local administration, which, without disturbing the elective system, should give promise of a reform of existing abuses. As already shown, all such efforts appeared to them, after the fullest consideration, to be misdirected; and the question remained, whether the election by universal suffrage of the local guardians of the financial concerns of cities can be safely retained. This report has thus far been largely devoted to a recapitulation of the discussions and conclusions through which they were led, or rather forced, to a consideration of the principal question above stated. We have pursued this method because we recognize and appreciate the natural disinclination of our citizens to attribute the disorders of our political system to the operation of general suffrage. After the most careful deliberation, our conclusion is that the choice of the local guardians and trustees of the financial concerns of cities should be lodged with the tax-payers. To admit to a participation in such choice, those who make no contribution to the funds to be administered is not in conformity with the principles on which human affairs are conducted, and is a departure from the general policy of this State, as frequently declared by the Legislature.

#### THE PRINCIPLE ON WHICH IT RESTS.

The distinction between the general government of the State and the government of its local divisions—very important to be observed—are often overlooked. We have heretofore, in general terms, adverted to them. They need a more pointed statement. The province of the State government consists in laying down the general principles and determining the civil polity of the State in establishing the rights of person, determining the conditions upon which property may be acquired, held and enjoyed, and framing the governmental agencies through which all rights may be secured. All these matters are of *general* and not merely *local* interest. They concern all citizens throughout the State in a similar manner, although some may not concern them in an equal degree.

For the purpose of carrying out the general systems thus established, certain powers are intrusted by the State to local officials for special, administrative and local purposes. Those powers (to borrow the precise language of Governor Tilden in the message already referred to), "in the most completely developed municipality, embrace the care of police, health, schools, street cleaning, prevention of fires, supplying water and gas, and similar matters, most conveniently attended to in partnership by persons living together in a dense community, and the expenditure and taxation necessary for those objects. The rights of persons, property, and the judicial systems instituted for their preservation—general legislation—govern-

ment, in its proper sense; these are vast domains which the functions of municipal corporations and municipal officers do not touch."

It is the next to be observed that much the larger part of this administration of the affairs of municipalities consists in the raising by taxation, from the owners of property therein, a common fund for carrying out the local purposes above referred to and the due application of that fund.

It is this domain of government proper which constitutes the true field for the operation of the principles and methods of universal suffrage. It is here that all actually possess, and feel that they possess, both a common and an individual interest, and an interest which will not, in general, be either bartered, betrayed or neglected, and which cannot be measured by any pecuniary standard. The rights of persons must be equal; and though all persons have not equal rights to property, they have equal rights to equal rules respecting property. This equality can be secured only through a legislative body in which all are represented, and can be maintained only when the general executive and judicial officers are subject to responsibility to all alike. In the election of the central Legislature, and of all the general executive and judicial officers, all citizens therefore should participate.

The case in respect to the choice of the local guardians of municipal funds is very different. In all our cities there are many who make no direct contribution whatever to these funds, and have no just title to say how much shall be exacted from other people, and to what purposes the contributions should be applied. It may be said that the burden of supporting government falls in some manner upon all. In a remote and indirect way a small part of the burden of local taxation falls upon those who do not directly contribute. But this is so inappreciable, and by them so little understood, as to be wholly immaterial to the present discussion.

The main object of local government, in this respect, is to secure faithful administration of financial trusts—to place the control of enormous sums of money in the hands of those who will see that they are applied to their proper uses. Knowing, as we do, that this control is, and must necessarily be, sought for by those whose object is to pervert it, and who will devote themselves, with restless effort, to the formation of powerful combinations to gain it, we deliberately, under our present system, throw these enormous prizes into the arena occupied by the contending factions. It would indeed be strange if the results of such a system were other than we find them. Our object is, or should be, to select, from the community, such guardians as prudent stockholders would choose to manage the concerns of a great corporation. The plan adopted hitherto seems no better adapted to secure a good administration, than a mode of election in a railway corporation, by which conductors, brakemen, truckmen, engineers and passengers should have an equal right with stockholders, to vote for directors. Indeed, when our present system is fairly subjected to the test of principle, there seems to be little room for argument. It stands self-condemned.

## ITS ACCORDANCE WITH THE ESTABLISHED POLICY OF THE STATE.

The established policy of this State, in respect to the administration of the financial concerns of municipalities, admits the limitation of the exercise of the right of suffrage on questions of expenditure and taxation to the tax-paying portion of the community.

From the fact that, in elections for city officers, all voters participate, it has come to be a common belief that the question of submitting the local government of cities, in all respects, to the full operation of universal suffrage, has, after the fullest consideration of the Legislature and people of the State, been deliberately adopted. This is an error, the correction of which we deem of great importance; not because the question of the wisdom and expediency of the policy depend upon whether it has heretofore been established, for, if such were the fact, the policy should be reversed, if found mischievous, but because all considerable errors upon so important a subject greatly obstruct the pathway to a just conclusion.

The question to which we now draw attention is not whether the policy of the State has been to intrust parts of the local governments of cities to the operation of general suffrage, but whether such has been its policy in relation to their financial concerns. It is important here to consider, first, what a city is in respect to the question under discussion. It is not the name of the corporate form which gives a city its character as such; but the fact that its inhabitants live closely together—in other words, that the population is urban as distinguished from rural. Wherever the pursuits of agriculture are displaced by those of manufacturers, trade or commerce, dense populations spring up, which require local governments radically different from those of the sparsely settled rural districts. The distinctions between such populations are obvious; but the consequences of such distinction are, in general, not sufficiently apprehended. Wherever a few thousand people come, from whatever cause, to dwell in close proximity to each other, the necessity arises for a local government framed to suit the needs of a compact population. The country highways do not suffice; streets are needed; cleanliness, comfort and health are to be attended to; the streets must be regulated, paved and cleaned; gutters, sidewalks and sewers must be constructed. A conflagration would bring a common peril; and common provision must be made for the prevention of fires. Dense populations stimulate vice, immorality, and consequent turbulence and crime, and provision must be made for a suitable police. All these interests are peculiar to such a population, and the necessary expense must be defrayed by contributions levied exclusively within the area inhabited by it. Wherever such a population exists, though it may be very small, a government in the nature of a city government is required.

It was remarked by the late Mr. Justice Nelson, in an opinion noted for its ability, delivered in the year 1835, in the Supreme Court of this State, "that any person who will look into the powers and privileges conferred upon towns and counties, and their qualified right of self-government in reference to their domestic relations, and

into the charter of the several cities and villages, will not fail to perceive that the only essential difference which exists between these corporate bodies arises mainly from the difference in the extent of their territory, the density of their population, and the nature of their occupation."

In the State of New York there are some one hundred and twenty villages, all of which possess a form of local government which contains the general features of city charters. In the establishment of these governments the Legislature has had before it, in each instance, the question to whom it should intrust the control of financial concerns. The universal general solution given to this question has been to intrust them to the tax-payers alone. The village executive officers, the board of trustees, the local Legislature of the village are elected by voters possessing the ordinary qualifications; but the vote of the tax-paying electors is, with certain exceptions presently to be noticed, requisite to confer the authority to raise money by taxation. In the instances of the first village charters no tax whatever was permitted to be raised except by the authority of a vote of the tax-payers; but it was found that there were certain annually recurring expenses, small in amount, and usually of about the same sum, which it was a matter of course to supply; and the Legislature in many instances, to save the inconvenience of a separate vote of a separate body of electors, at a village meeting, introduced into numbers of the village charters carefully guarded provisions authorizing the boards of trustees to raise by tax sums limited in amount, usually a few hundred, sometimes a few thousand dollars, for these regular and inevitable expenditures; but for any unusual object requiring the expenditure of any considerable sum, the authority to levy a tax was and is carefully restricted to the tax-payers; and it is to be observed that any proposition for the raising of an unusual tax, when submitted to the tax-payers, must state the objects and purposes to which the money is to be applied, so that the contributors to the fund pass judgment upon the objects of the expenditure as well as upon the amount to be raised.

Provisions adopting the method above pointed out will be found in the charters of all or nearly all the villages of the State which were incorporated prior to the passage, in 1847, of the general law for the incorporation of villages; and the form in which they were generally embodied may be illustrated by a citation from a village charter, selected at random, that of the village of Genesee, incorporated in 1845.

"Section 6. Every person residing in the said village, and possessing the qualifications prescribed by the Constitution to authorize him to vote for elective officers, may vote at such annual meeting for any officers to be elected thereat; but no person shall vote upon any proposition to raise a tax or appropriate the same at any such meeting unless he shall at the same time be liable to be assessed for such tax."

The Constitution of 1846 made it the duty of the Legislature to provide by general law for the incorporation of villages, and accord-

ingly, the general act of 1847, above referred to, was passed, and continued in force until it was superseded by the general village incorporation act of 1870. Both these acts reaffirmed and adopted the same principle of discrimination in the exercise of the suffrage, giving the election of officers to the electors generally, but committing questions of expenditure, with the exception of small amounts for ordinary purposes, to tax-payers alone. Many of the cities of the State grew up out of village organizations, and their charters usually contain the same discrimination. The charters of Binghamton, Kingston, Oswego, Ogdensburg, Elmira and Long Island City are referred to as instances.

#### THIS POLICY PLAINLY APPLICABLE TO ALL CITIES.

It may be asked why this policy of the State so frequently declared by the Legislature in reference to all villages and the smaller cities, has not also been applied to the larger cities? That financial concerns should be thus carefully placed under the control of the tax-payers in those smaller communities, where the number of the unreflecting or the vicious population and the facilities for successful combinations among greedy aspirants for the control of public patronage and plunder are comparatively small, and that these obvious safeguards should be wholly omitted in the great cities, is a striking anomaly. This anomaly is not, however, we are glad to say, the result of deliberation, but rather of accident. It should be explained.

The question whether these concerns should be intrusted to the control of universal suffrage or to that of tax-payers only, could not arise in the convention which framed the Constitution of 1821. That convention preserved the restriction of the right of suffrage in all cases to owners of property. In 1826 the people of the State, by an amendment of the Constitution, almost wholly abrogated the property qualification. The convention of 1846 did not adequately deal with the questions arising respecting the local government of cities and villages. At that time, as we have already shown, the control of financial concerns was, in all villages, and most of the cities, lodged with the tax-payers, through the instrumentality of a system of direct voting upon the questions themselves. In respect to the metropolis, the Legislature itself annually passed upon the question of all the expenditures, and as to many of the expenditures of other large cities. Moreover, the evils of wasteful and corrupt administration had then scarcely begun to develop themselves to a degree sufficient to command attention; and the convention contented itself with an express delegation to the Legislature of the duty of providing by general law the requisite legislation for cities and villages. That duty, so far as it relates to villages, has been performed in the manner already indicated. In respect to cities, especially the larger ones, it could hardly be performed by the Legislature alone. To commit the control of financial affairs, even in respect to extraordinary expenditures and debt, to a direct vote of the tax-payers, was hardly possible. This method is applicable only to small communi-

ties and to very simple concerns. To extend it to great cities, like the metropolis, would be impracticable.

The establishment of a representative body, to be chosen by the tax-payers, is, therefore, the proper method by which they can control the question of expenditure and taxation in large cities; but the provisions of the Constitution, declaring in effect that all elective officers are to be chosen by universal suffrage, stands in the way of such a procedure. The result is that the Legislature has been compelled to leave the great concerns of debt and taxation, for the most part, to the municipal councils chosen by the voters at large. That these councils, under such a system, should degenerate into what we now find them is inevitable under such a policy. In answer to the earnest appeals of citizens against the peculations, wastes, malversations and disorders thus engendered, the Legislature has, in many instances, taken to itself the performance of local functions, and disposed of the questions, how much money a city should raise, and to what objects it should be applied. Evils still more alarming, developing themselves under this practice, the central authority has felt the necessity of refraining from the discharge of functions so inappropriate, and has again devolved them, as to the metropolis, upon the local authority, but this time, upon a hybrid body, composed, in part, of heads of executive departments, of course disinclined to enforce economy against themselves, and, consequently, disqualified to impose it upon others. The commission created in 1872 for the amendment of the Constitution, perceived the anomaly we have pointed out, and the necessity of the creation in large cities of a board representative of the tax-payers, under whose guardianship the prime matters of debt and taxation should be placed, and recommended an amendment of the Constitution designed to remedy the evil. For reasons not involving, it is believed, a dissent on the part of the Legislature from the principles thus embodied, the recommendation failed to be put in the authoritative shape requisite for its submission to the people.

From this review of the policy of the State, we are justified in affirming that the people and the Legislature, while providing for the organization of dense populations under corporate forms, enabling the people to govern themselves—and while entrusting to the electors, without discrimination, the election of the chief magistrates and of the local legislatures, whose province it was to provide for the common welfare—have, at the same time, committed the control of the expenditure of money to the body of voters from whom the money to be expended must be raised. The deviations from this practice have arisen from causes which the Legislature could not control, and constitute an anomaly which is the real source of our existing disorders.

In recommending, as we do, the establishment of a uniform system based upon the fundamental principle of representative government, that the assembly which votes the taxes should be elected by those who contribute toward the taxes imposed, we remove an anomaly, but suggest no innovation. On the contrary, we recognize and

extend the established policy of the State, and provide a mode by which it can everywhere be conveniently administered.

#### SOME OBJECTIONS CONSIDERED.

Before leaving this subject, a few observations may be made to meet some probable objections. 1. The fact that the sums raised for town purposes are voted upon by all the electors may be suggested as qualifying our statement respecting the policy of the State. This circumstance really constitutes no ground for such a qualification. The present mode of voting the town taxes was adopted at a time when none but tax-payers voted. And after the property qualification was modified by the constitutional amendment of 1826, no evil of sufficient magnitude displayed itself to suggest the expediency of a change in this particular. All our observations have been confined to the question of expenditure as it arises in connection with dense populations, as in the case of cities and villages. The density and magnitude of the population form the controlling consideration. In this respect there is a distinction between rural and urban communities. In the former the proportion of the proprietors to the whole population is much larger than in the latter; and when we include with the proprietors the voting members of their families, and others whose interests are so closely identified with theirs as to be incapable of separation, we find that in committing questions of expenditure to the voters at large they remain practically within the control of the tax-payers. Again, in rural communities the reckless and vicious part of the population is small, separated and comparatively incapable of being organized and led by unscrupulous political managers seeking control of the common fund, and that fund itself is, in general, so small as to offer little temptation to greed. An additional safeguard is found in the free and open discussion of the town meeting. These conditions seem to so far diminish the dangers of abuses in the management of town expenditures as to render unnecessary any discrimination between the control of expenditures and the other objects of the local government.

Even here, however, it is to be observed that the Legislature, when providing for the raising and outlay of considerable sums, has reaffirmed the fundamental distinction we have insisted upon. It has also incorporated it in the free school system of the State by provisions securing the control of the expenditures of each district to the taxable inhabitants of such district, to whom the annual budget is submitted, and who vote upon it in detail. So also with the numerous laws permitting towns to borrow money for aiding in the construction of railroads and other similar purposes. Those only who are liable as tax-payers to pay the debt are permitted to have a voice on the question of its creation.

2. It may be said that the discrimination insisted upon should, if a just one, be applied to the general government of the State, and the control of the State expenditures be confined to those who contribute to them. But here the discrimination is not practicable.

Those expenditures must necessarily be regulated by the general Legislature; and as this body has the general function of determining the rights of all the citizens, and the rules by which every member of the community is to be governed, popular government requires that it should be the representative of the whole population. Fortunately, State expenditure, though large, is small when compared with the aggregate sums raised for local purposes, and the members of the central legislature occupy a position of influence and responsibility wider than members of municipal boards. As to such State expenditures the Constitution of 1846 has made detailed and wise provisions, both as to their purposes and the increase of the debt, which have proved of such efficacy, that the burdens they impose are easily borne, and the sinking fund will, in a few years, entirely relieve us from a State debt. Moreover, the objects to which the State funds are applied are widely distributed, and the facilities for combinations to control them greatly diminished. The administrative precautions and methods which we recommend, are those which the natural laws underlying human affairs demand. These laws cannot be disregarded by society any more than by individuals, without disaster.

3. It may be suggested, even by those who agree with the views we have expressed as to the necessity in our cities of a body representative of the tax-payers, that, by reason of a popular belief, however unfounded, that such a measure would be an encroachment upon the principle of universal suffrage, it will be impossible to procure its adoption. We have not overlooked this suggestion. It would be a sufficient answer to it to say that this commission was constituted for the purpose of devising a plan of local government calculated to reach and remove those evils which have assumed alarming proportions. It would be a wholly inadequate discharge of this grave duty if we should hesitate to give effect to our deliberate conviction because of apprehensions that they may arouse prejudices and even meet with serious resistance. To recommend a system in accordance with sound principles of government, and necessary to the preservation of our municipal institutions, is our plain duty. The responsibility of accepting or rejecting it rests upon the Legislature and the people. But it is a better answer to say, that this measure is, in our opinion, a just one, and must sooner or later be accepted and adopted.

All that is needed to bring the public mind to an acceptance of these conclusions, is to secure its attention to the overwhelming importance of the subject. Hitherto it has received no adequate public discussion. A full comprehension of the vast interests at stake must overcome this indifference. The twenty-four cities of the State exhibited, according to the census of 1875, a population of 2,213,373, while the entire population of the State was 4,330,210. The assessed aggregate value of the property subject to taxation in these cities was \$1,516,449,596, while the assessed value of the whole property in the State at the same time was, in round numbers, \$2,000,000,000. The vast financial concerns of these great communi-

nities, representing one-half of the population, and three-fourths of the property of the State, cannot, without ruin to the general interests, be surrendered to the control of contending factions, organized for political and personal aggrandizement.

When the question is fairly met, without reference to party interests, it will, we think, be clearly perceived that objection to it, founded upon any supposed violation of the principle of general suffrage, proceeds from a total misconception. It is not proposed to interfere with that principle in any particular affecting legislation which establishes the general rights or obligations of citizens. The choice of all State officers, of members of the Legislature, of the chief executive officers of cities, of local bodies, which frame the ordinances providing for the public health, peace and order, is left wholly untouched. All that is proposed to be done is to place the concerns of local taxation and expenditure within the control of those who contribute to the local funds to be raised and expended; and this, as already shown, is not in violation of the principle of popular suffrage, but in strict conformity to it, and also in conformity to the general policy of the State, as repeatedly declared.

The measure we recommend is not in opposition to the principle of general suffrage, but in support of it—as much so as if the sole duty of this commission had been to consider how that principle could be best preserved and perpetuated. No surer method could be devised to bring the principal of universal suffrage into discredit, and prepare the way for its overthrow, than to pervert it to a use for which it was never intended, and subject it to a service which it is incapable of performing.

Even now sarcasm and ridicule are frequently leveled against the system of universal suffrage, as if it were a contrivance unsuited to any department of human affairs. Such criticism seems wholly misdirected. This principle, justly applied, is the true foundation of our government, and a leading source of our strength and prosperity as a nation. It is not the use, but the abuse of the principle that can ever bring it into contempt or endanger its preservation. To expect frugality and economy in financial concerns from its operations in great cities, where perhaps half of the inhabitants feel no interest in these duties, is to subject the principle to a strain for which it is not designed, and which it cannot bear. All true friends of the system should unite in rescuing it from such perils.

Enough has now been said to vindicate the conclusion of this commission that a body representative of the tax-payers is necessary as an integral part of the local government of cities. Inasmuch as this conclusion enters into the plan to be proposed by them as a fundamental element, it has seemed to us best that a vindication of it should precede the statement of the scheme.

#### DETAILS OF THE PLAN OF THE COMMISSION.

In the preparation of the plan proposed, the commission have endeavored to keep constantly in view the distinction between what

can be accomplished by legislation and what cannot be so accomplished. Power bestowed will sometimes be abused, and checks against such abuse must be employed; at the same time the introduction of too numerous checks tends to cripple the beneficial exercise of power. All useful efforts for improvement in local government fall within three general divisions:

1. The mode by which the most competent and faithful local governing bodies and executive officers can be chosen.
2. The vesting in these governing bodies ample powers for the public welfare.
3. The interposition of checks to prevent the possible abuse of the powers bestowed.

Guided by these general views, the commission propose a framework for the local government of cities to be incorporated in the Constitution of the State, of which the following are the principal features:

*First.* The delegation of the entire business of local administration to the people of the cities, free from legislative interference therewith; reserving to the State its functions of making the general laws under which the local affairs are to be administered, and also a supervision of the manner of administration.

*Second.* A chief executive officer, clothed with the authority of general supervision, and with the unfettered power to appoint the other principal executive officers, except those two (the chief financial and chief law officers), whose duties immediately affect the matter of the public expenditures, and with the power of removal, subject, however, to the approval of the governor.

*Third.* A board of aldermen clothed, as now, with all the legislative powers, except such as relate to taxation and expenditure, and elected, as at present, by the people.

*Fourth.* A separate body called the board of finance, to be elected by tax and rent-payers, with such powers only as relate to taxation, expenditure and debt, its principal functions being to determine the amount of the annual expenditure, and to appropriate to its various objects and purposes. The assent of this body is made requisite to the appointments of the chief financial and law officers.

*Fifth.* A detailed plan, designed to be complete in itself, for securing efficiency, order and frugality in the financial administration, and to be executed by the board of finance. Its main features are:

1. The determination in each year of the sum of money requisite to be expended for all objects and purposes, and what part thereof is to be raised by taxation, and the levying of the latter sum.
  2. The appropriation at the same time of the whole sum to be expended to the several objects and purposes.
  3. The certain realization of the entire amount appropriated by compelling the relevying of deficiencies in the collection of taxes.
  4. The prohibition of any expenditure beyond the sums appropriated by making all contracts or engagements in excess thereof void.
- Sixth.* A further enforcement of the maxim "pay as you go," by a prohibition against borrowing money or incurring debt, except under certain specified conditions, not likely to arise often.

## NECESSITY FOR CONSTITUTIONAL AMENDMENT.

The grounds upon which the incorporation of the entire plan in the Constitution has been deemed essential must now be stated.

A principal reason is the necessity of *stability*. Our experience has shown that even a good law requires time to test its merits. In the first instance, any change brings with it incidental inconvenience, although such change is from a worse to a better system; additional difficulties arise from ignorance and misapprehension of its provisions. And such inconveniences and difficulties lead to impatient amendments, which, in their turn, become the source of further amendments; and thus, in a short time, the whole law becomes honeycombed by exceptions, provisos and changes, which make it inoperative for good.

Any mere legislative enactment, however carefully framed, embodying the principles which are contained in the plan herein proposed, would annually inevitably excite contention in the legislative halls between the friends of good government and the sinister interest excluded from future direct participation in the fruits of taxes. Specious arguments and political exigencies for patronage would in themselves in the future, as in the past, be a fruitful source of change in the administrative departments of local government; and parts of the plan, however harmonious, would be compelled to give way to the pressure of party or personal interests.

These views are well expressed by Governor Tilden in his message of the 11th of May, 1875, and his opinion seems to have been accepted by the Legislature in the concurrent resolution providing for the creation of this commission by referring to instability as the source of our evils.

To the extent that the evils arise from instability they can be remedied only by giving any plan, whatever it may be, the protection from the encroaching spirit of restless change, which the Constitution alone affords. Entertaining these views, we have studied to reduce the plan proposed to the most concise and compact form, and to exclude from it all details of administration, except where such details were necessary to its completeness and efficiency. It is believed that little of superfluity, either in substance or expression, will be found in it.

Another object to be obtained is *uniformity*. This is declared in the preamble to the joint resolution of the Senate and Assembly creating this commission to be a necessity. As all the provisions of the plan proposed are capable of application to all the cities of the State, the condition of uniformity is fully complied with. In conforming the various charters of different cities to these provisions, changes in their details will be undoubtedly necessary; but the plan proposed is uniform, and all that will be required to give it effect is to adapt the existing charters of city governments to the general provisions of the article.

It may be added, as a further reason for incorporating the plan in the Constitution, that it is only by a constitutional provision that the change proposed in the method of electing the board of finance can

be accomplished. In the case of villages and of small cities the limitation of the exercise of the right of suffrage is made applicable by the Legislature by provisions relating to the direct vote of the tax-paying electors upon questions of debt and expenditure without interfering with the methods prescribed by the Constitution for electing the officers by whom the expenditure is to be made. In the case of large cities it would be manifestly impracticable to submit such questions to the vote of the tax-payers, and the necessity of confiding the financial administration of the city to a board of elective officers cannot be seriously questioned. A change of the Constitution in this important particular was therefore, in any event, necessary, and as the other provisions of the plan are framed to a large extent with reference to and in aid of the board of finance and its administration of the finances of the city, it is essential to the proper working of the plan that all these provisions should be included in the proposed constitutional amendment.

It may be thought that inasmuch as the carrying of the scheme into full operation will require further legislation, it would have been a useful supplement to the principal work of the commission if it had drawn what might be deemed a model charter applicable to all cities, or forms of general laws designed to give full effect to the plan proposed. This matter was attentively considered by the commission, and the conclusion reached that neither of these attempts on their part would be expedient. The cities of our State exhibit such differences in magnitude, in the nature of the populations, their pursuits, and other leading features, that no single charter embracing the provisions usually contained in such instruments could be well contrived. Provisions quite necessary for one city would be useless, or worse than useless, in another. The devising of a general plan applicable to all cities was the duty devolved upon this commission; and they are of the opinion that in constructing such general plan it would be hazardous to enter upon more minute details than are exhibited by the one here proposed. Similar observations may be made in respect to the suggestion of general laws designed to carry the scheme into full effect. It would be premature to present any such laws in advance of the adoption of the proposed constitutional amendments, and they could not be adequately framed except by a body having before it the representatives of the different local governments, to the end that their varying needs might be the better ascertained and accommodated to the change in the fundamental law.

The following is the text of the plan which this commission recommends in the form of an addition to the Constitution:

#### ARTICLE.

SECTION 1. The power of the Legislature to provide for the organization and government of cities shall be exercised in accordance with the provisions, and subject to the limitations and restrictions hereinafter contained, and the powers and franchises of every existing city government must be exercised in conformity therewith.

The Legislature shall, at its first session after the adoption of this article, provide by law for carrying into effect all the provisions contained therein.

§ 2. City elections shall be held separately from the State and national elections, and in March or April.

§ 3. The legislative power conferred on any city shall be vested in a board of aldermen, to be elected by the electors qualified under article second of the Constitution, which shall be the common council of said city; but no power hereinafter vested in the board of finance shall be conferred on or exercised by the board of aldermen. In case of a veto of any legislative act of the board of aldermen by the mayor, the board shall have power to pass the same, notwithstanding the mayor's veto, by a recorded vote of two-thirds of all the members elected, provided that such vote be taken at the next meeting of the board after the communication of the veto.

§ 4. The executive power of every city shall be vested in the mayor and in such executive officers and departments as may be created by law. The mayor shall be the chief executive officer of the city, and he shall see to the faithful performance of their duties by the several executive officers and departments thereof. He shall be elected by electors qualified under article second of the Constitution, for such term, and he shall receive such compensation as the Legislature may prescribe. He shall nominate, and with the consent of the board of finance, appoint the chief officer or head of the financial department, and the chief law officer or head of the law department; and he shall have power to appoint the head or chief officers of the other executive departments. With the written approval of the Governor, the mayor may remove the head or chief officers of any executive department. He shall have power to investigate their accounts and proceedings; have access to all books and documents in their offices, and may examine them and their subordinates under oath, as to all matters relating to the performance of their official duties. He shall also have power to veto any legislative act of the board of aldermen. The mayor may be removed by the Governor for cause, as in the case of sheriffs; and in case of such removal, the Governor shall appoint a mayor to fill the vacancy, who shall hold office until the next succeeding city election, at which election a mayor shall be elected for the full term of the office. The Legislature shall provide for the filling of a vacancy in the office of mayor, otherwise occurring, until the next succeeding city election, and also for the discharge of the duties of the mayor during his temporary absence or disability. Heads of departments shall have power to appoint and remove their subordinate officers and employes, but the Legislature may regulate by law the qualifications for such appointments, and the conditions of such removals.

§ 5. There shall be elected in every city of this State a board of finance, to consist of not less than six, nor more than fifteen members. In cities having a population, according to the State census next preceding the election, of over 100,000 inhabitants, the board of finance shall be elected by the electors of the city (otherwise qual-

ified under article second of the Constitution), who shall, for two years next preceding the election, have paid an annual tax on property owned by them, and officially assessed for taxation in such city, of the assessed value of not less than \$500, or shall have actually paid during the same period a yearly rent for premises in said city occupied by them for purposes of residence or lawful business, of not less than \$250. In cities having a population, according to the State census next preceding the election, of not more than 100,000 inhabitants, the board of finance shall be elected by the electors of the city (otherwise qualified under article second of the Constitution), who shall, for two years next preceding the election, have paid an annual tax on property owned by them and officially assessed for taxation in such city, or shall have actually paid during the same period a yearly rent for premises in said city occupied by them for purposes of residence or lawful business, of not less than \$100. In cities having a population, according to the State census next preceding the election, of not more than 25,000 inhabitants, the board shall consist of six members. In cities having a population of over 25,000 inhabitants, and not more than 50,000, it shall consist of nine members. In cities having a population of over 50,000 inhabitants, and not more than 100,000, it shall consist of twelve members; and in cities having a population of over 100,000 inhabitants, it shall consist of fifteen members. At the first election one-third of the board shall be elected for a term of one year, one-third thereof for a term of two years, and one-third thereof for a term of three years; and thereafter the term of office shall be three years. The existence of any vacancy in the board shall not of itself suspend the exercise of its powers and duties. The Legislature shall, at its first session after the adoption of this article, and thereafter, from time to time, as may be necessary, provide by general law for the registration, in every city, of electors qualified to vote for the board of finance, and for filling vacancies in said board, and may change the number of members of which the said board shall consist in any city, provided that the number shall not in any case be less than six, and that one-third of the board shall be elected annually.

§ 6. The board of finance shall, in every fiscal year, make estimates of the sums of money necessary for the proper administration of the city government during the next fiscal year, and which are to be raised by taxation or supplied by the revenue of the city derivable from other sources, and applicable to general purposes. Such estimates shall include the sums requisite for the payment of the interest on bonds or other city debts drawing interest, the principal of any debts payable during the year, judgments against the city, the sums sufficient to make good all deficiencies in the payment of taxes on personal estate for the last preceding year, and any deficiencies in the collection of taxes on real estate for any preceding year which may be found by the board to be uncollectible, and also any deficiencies in the collection of the estimated revenues from other sources, and all other sums required by law to be raised by

taxation. The estimates shall also separately state the aggregate amount of moneys in the treasury or receivable during the next fiscal year, applicable to general purposes, in which may be included any prior unexpended appropriations which, in the judgment of the board, may not be required to meet existing liabilities; and shall, in like manner, separately state the aggregate amount to be raised by taxation. The board shall submit the estimates, when completed, to the mayor, who shall, within ten days thereafter, return the same to the board, with his approval, or with his objection, if any he have, in writing, specifying the items objected to; and the items thus objected to, but no others, shall be reconsidered and finally determined by the board. The board shall, after the return of the estimates by the mayor, and the action of the board upon the items objected to, if any, or in the event of a failure of the mayor to return the same as above required, proceed by resolution to declare the estimates to be final and adopted, and the several sums of money therein estimated as necessary, shall become and be appropriated to and for the departments and officers therein mentioned, and for the objects and purposes therein mentioned. The aggregate amount to be raised by taxation shall be stated in such resolution, and shall thereupon be levied and collected in the manner provided by law for the levying and collecting of the city taxes. The board of finance may, during any current fiscal year, by a unanimous vote, and with the approval of the mayor, in case of pestilence, conflagration, or other unforeseen public calamity, transfer sums of money appropriated to one department, object or purpose, and not required to satisfy existing liabilities, to another department, object or purpose. A vote of a majority of the entire board shall be necessary to the passage of any measure or resolution; and a vote of two-thirds of the entire board shall be necessary to the adoption of the estimates hereinbefore provided for, or any item thereof, or to authorize the issue of any stock or bonds, and in such other cases as are hereinafter specified. It shall be the duty of the several departments, boards and officers, and the common council, to furnish all such statements and accounts as the board of finance may require, and at such times and in such manner as the said board may prescribe; and the board of finance shall also have power to examine the books and papers of the several executive departments and officers, and to examine such officers upon oath, concerning their official business.

§ 7. No debt or liability shall be incurred by any department, board or any officer in any city, unless there shall be at the time an unexpended appropriation applicable thereto sufficient to satisfy the same and all debts and liabilities previously incurred and payable out of such appropriation; and all contracts and engagements in contravention hereof shall be void. Nor shall any debt or liability of the city be paid, except out of money in the treasury appropriated to the purpose of paying such debt or liability. No city government, or any department thereof, shall grant any extra compensation to any officer, servant, agent, contractor, or employe.

§ 8. The Legislature shall itself have no power to pass any law

for the opening, making, paving, lighting, or otherwise improving or maintaining streets, avenues, parks or places, docks or wharves, or for any other local work, or improvement in or for a city, but all authority necessary for such purposes shall be by law conferred on the city government; nor shall the Legislature impose any charge on any city or civil division of the State containing a city, except by a vote of two-thirds of all the members elected to each house. Any local work or improvement, in or for a city, the cost of which is to be wholly paid by the city at large, must be authorized by resolution, passed by the vote of two-thirds of all the members elected to the board of aldermen and board of finance respectively. Any such work or improvement, the cost of which is to be wholly paid otherwise than by the city at large, must be authorized by the vote of two-thirds of all the members elected to the board of aldermen, with the consent of a majority in interest, to be ascertained in such manner as the Legislature may prescribe, of all the owners of land within the district of assessment limited for the cost of such work or improvement. Any such work or improvement, the cost of which is to be paid in part by the city at large, and in part by local assessment, must be authorized by a resolution passed by the vote of two-thirds of all the members elected to the board of aldermen and board of finance, respectively, with the consent of a majority in interest, to be ascertained as hereinbefore directed, of all the owners of the land within the prescribed district of assessment.

§ 9. No money shall be borrowed by any city government for the purpose of defraying any of the expenses of the city for which an appropriation has been made, except in anticipation of the revenue of the year in which the same may be borrowed, applicable to such purposes; and all moneys so borrowed must be paid out of such revenue, or out of revenues specially provided to supply any deficiency in the collection thereof; provided, however, that temporary loans, in anticipation of taxes, may be renewed, so far as such taxes may not have been collected, when the same are, in the opinion of the board, fully secured by valid liens on real estate. No city shall borrow any money for any other purpose, except under and in accordance with the following conditions and limitations, in addition to any other conditions and limitations contained in the Constitution;

1. The debt must be for some single work or object only, and must be authorized by a resolution passed by a vote of two-thirds of all the members of the board of finance, and approved by the mayor, distinctly specifying such work or object, and the amount of the debt to be incurred.

2. The Legislature must, before the creation of such a debt, assent thereto by a law passed by a vote of two-thirds of all the members elected to each house. Such law shall also distinctly specify the single work or object for which the debt is created, and the amount of the debt authorized, and shall contain provisions for a sinking fund to meet the same at maturity, and requiring at least ten per cent of the principal to be annually raised by taxation and paid into the sinking fund.

§ 10. Except as prescribed by the first section of this article, no change in the organization of, or in the distribution of powers in, a city government, or in the terms or tenure of office therein, shall be made by the Legislature, unless by an act passed upon the application of the city, made by resolution both of the board of aldermen and of the board of finance, respectively, approved by the mayor, or by an act which shall have received the sanction of two successive Legislatures.

#### REMARKS ON THE FOREGOING ARTICLE.

##### *Section 1. Legislative Power of the State.*

This section declares that the legislative power to provide for the organization and government of cities, which has hitherto been little qualified by any constitutional restrictions, shall hereafter be exercised in accordance with the provisions, and subject to the limitations contained in the succeeding sections of the article.

It also provides that the powers and franchises of every existing city government must be exercised in conformity with the provisions, limitations and restrictions contained in the article.

This section strikes at the root of one of the main evils of our existing municipal system—improvident legislative control and interference, but, at the same time, recognizes and asserts the power of the Legislature over all municipal corporations, subject to the express provisions of the article now proposed.

"All legislative power is conferred on the Senate and Assembly, and if an act is within the legitimate exercise of that power, it is valid, unless some restriction or limitation can be found in the Constitution itself. The distinction between the United States Constitution and our State Constitution is, that the former confers upon Congress certain specified powers only, while the latter confers upon the Legislature all legislative power. In the one case the powers specifically granted can only be exercised. In the other, all powers not prohibited may be exercised." (*People v. Flagg*, 46 N. Y., 401, 404.) The Legislature is left free to grant, alter or amend city charters, as heretofore, except that as to the particulars provided for by the express terms of this article every charter granted, or to be granted by the Legislature, must be made to conform thereto.

No political powers are intended to be vested in the cities as against the State (see *People v. Morris*, 13 Wend., 325); but the exercise of those powers is intended to be controlled and regulated according to the provisions of this article.

Existing city governments must adapt their administration to the requirements of the article, in such manner as the Legislature may direct, where the article itself does not furnish the rule of action.

The general design of this article, together with the subsequent provisions relative to the power of the State, may be thus briefly expressed:

*First.* To remit the business of local administration to the people of the localities.

*Second.* To reserve to the State its proper function of providing the general methods for the conduct of such business, and exercising a supervision, when necessary, over such conduct.

### *Section 2. Charter Elections.*

These are to be held separately from the State and national elections, and in March or April.

New York, Brooklyn and Buffalo are the only cities in the State in which the charter elections are held simultaneously with the general elections. In a majority of the other cities the charter elections are held in the spring, and either in March or April. This section is designed to secure uniformity in respect to time, and, so far as possible, the permanent divorce of municipal elections from the annual State elections in all the cities of the State. The question of the separation of the elections in the city of New York has been a fruitful source of debate and experiment. From 1834 to 1849 the charter election was held in the spring. From 1850 to 1856 it was held in the fall, simultaneously with the general election. From 1857 to 1869 it was held in December. Under the existing charter of 1870 the election is held simultaneously with the State election in November. The reasons which have prevailed during the greater part of the thirty-three years, covered by the dates just given, to separate the municipal election from the general election, have seemed to the commission to apply with special force at this time. In entering on a new era of municipal government, it is certainly to be expected that our citizens will take a new interest in the administration of local affairs, and that the newly-aroused activity of our people for the prevention of abuses and the permanent good management of municipal finances, will manifest itself in every canvass and election. To insure the maximum of intelligent interest in regard to the nomination and election of municipal officers, there must be the minimum admixture of other political elements, and this can only be attained by a permanent separation of the charter election from the national and State elections. It is a mistake to suppose that the municipal elections fail to bring out a full vote in the large cities. A careful comparison of the votes cast in the city of New York at the charter elections and the general elections during all the years from 1834 to 1874, discloses the fact that in many years the number of votes cast at the spring charter elections was larger than the number cast at the fall general election; and that when the elections were held simultaneously, the votes cast for political candidates on State or national tickets largely exceeded those cast for the mayoralty candidates. In sixteen elections, from 1834 to 1849, the aggregate of the votes cast for political officers was 9,985' larger than those cast in the same year for the mayoralty candidates, while the whole number of votes cast at fifteen elections, from 1850 to 1874 (both years included), when the general elections were held simultaneously with the charter election, or a few weeks later, shows a much larger preponderance of the

votes given for political officers, the votes cast at those fifteen elections for the highest political officer being 54,525 in excess of the votes given for the mayoralty candidates at the same time. It should be observed, however, that the last-named period embraced a presidential election, at which the vote was unusually large.

### *Section 3. Legislative Power of Cities.*

Whatever legislative power the Legislature of the State may grant to any city must be vested in a single board, to be elected by general suffrage as now provided by the Constitution.

A single board of aldermen, to be elected either from the wards of the city or by general ticket, as the several city charters may prescribe, is deemed the best depository of legislative powers. And all governing power requiring local legislation for its due administration is to reside in the board of aldermen, except as to the special incidents of expenditure and the provisions therefor which are confided to the board of finance.

"No power hereinafter vested in the board of finance shall be conferred on or exercised by the board of aldermen." This is essential to the objects for which the board of finance is created, and imposes upon that board the sole responsibility for its action in respect to the trust devolved upon it.

The power of the board of aldermen to pass any legislative act notwithstanding a veto by the mayor, is regulated by requiring a vote of two-thirds of all the members elected to be recorded, and making it imperative that such vote be taken at the next meeting of the board after the communication of the veto. The provision as to the time of the overruling vote is designed both to secure reflection, and also to prevent the "log-rolling" practices which are facilitated by a holding in suspense of the overruling power.

### *Section 4. The Executive Power.*

The design of this section is :

1. To separate the exercise of executive from legislative or discretionary power. The discretion which passes upon the expediency of measures, especially those involving expenditure, should have no connection with the steps, such as the making of contracts, requisite to carry them into effect. These inconsistent functions may, in very small communities, be united without danger. In large ones the union cannot fail to result in extensive abuse and mischief. Executive offices or departments are therefore essential.

2. In respect to the mayor, to mark, as nearly as possible, the line of prudence between the extremes of giving too much and too little power. To bestow upon him the absolute power of appointment and removal of all the principal executive officers, would, in the great cities, render him an autoocrat. Responsibility for maladministration would, it is true, be easily fastened upon him; but to apply the remedy of deposition from power at an election would be a difficult task. To put into the hands of a single man the control of

twenty millions of dollars, with liberty to use it to keep himself in place, would be suicidal.

On the other hand, to require the concurrence of the aldermen in appointments, is to divide and destroy the responsibility. The analogies of the federal and State governments are not very useful here. The Senates in both are filled by a higher order of men; but even there mischievous bargaining cannot wholly be prevented. We think it easier to give the mayor the unfettered power of appointment, except in two instances, and the power to remove, with the approval of the Governor. The case would be rare when a removal is really demanded for which the Governor's approval could not be obtained; and the exercise of this function by the Governor is a part of that prudential supervision which rightly belongs to the central authority. This oversight of local administration is a familiar and useful part of our present civil establishment. It has rarely, if ever, been abused.

The two officers whose conduct immediately relates to the questions of expenditure and debt are excepted from the mayor's general power of appointment. The best efforts of the board of finance might be crippled by the presence of unworthy occupants of these places. We think it highly useful to give that board a check upon improper selections.

3. We think, also, that the power to remove the mayor, now reserved to the Governor, should be continued. The Legislature may make his term of office a long one; and the plan proposed confers upon him a much larger authority than such officers at present exercise. Such removal might prove a very inadequate relief were it merely to create a vacancy to be filled by some designated officer chosen for very different purposes. In case of removal, therefore, the Governor should fill the office by a temporary appointment until an election by the people could be held.

4. Heads of executive departments hold important places. They should be held rigidly responsible for an efficient discharge of their duties. Until some useful and practicable rules of "civil service" can be devised, no better method can be suggested than that of allowing these officers to select their own subordinates. Full authority is reserved to the Legislature to prescribe such rules of "civil service."

#### *Section 5. The Board of Finance.*

This section provides for the creation of the board. Its duties and powers are subsequently specified. The objects sought to be accomplished by this section are as follows:

1. To create a body representative, exclusively, of those who contribute an appreciable share toward the public expenditure. Considering the extent to which the burden of taxation in our cities is imposed upon houses and lands, the constituency might have been limited to those who pay such taxes, and many conveniences would have thereby been saved, and with moderate restrictions as to the value of real estate requisite for qualification, abuses could very

easily be prevented. But the true principle of representative government is, that in the choice of a body which is to control the public moneys, all who contribute to the fund should have a voice.

We have, therefore, included in the constituency those who pay rent above a certain amount, even though they pay no direct taxes. To what extent taxes upon houses fall upon the occupier instead of the landlord, even when paid by the latter, is a disputed question in political economy; but it can scarcely be doubted that this burden does, to some extent, fall upon tenants.

It is to be apprehended that, upon the adoption of the plan proposed, efforts may at once be made by contending factions struggling for the control of the municipal power to manufacture voters by making tax-payers of persons who own no property. Such a danger must be guarded against, otherwise this main feature of the plan of local government at once will become a dead letter. Such has been the case in Pennsylvania, where the payment of a tax is, by the Constitution, made a qualification to the exercise of the privilege of suffrage. This requirement has been held to be satisfied by the payment of a poll-tax, and it is a matter of course for the political parties or others desiring to carry an election to pay the tax for such of their followers as will not pay it themselves. It is needless to say that such a practice in our large cities would certainly result in the creation of a board of finance in no respect superior to the worst examples of boards of supervisors or aldermen which our municipal history exhibits, and we should have all those evils thrust back upon us from which escape has been sought by legislative intervention. The discretionary power to raise money by taxation must be lodged somewhere. By the scheme proposed, it is intrusted to the body representative of the tax-payers. This will be found to be a safe repository, if it is made really representative of the bona fide tax-payers, but not otherwise.

To prevent abuse, therefore, we have introduced a provision restricting the qualification in cities having a population of over 100,000, to those who have for two years paid an annual tax on not less than \$500 of property, or a yearly rent of not less than \$250. This restriction is not a departure from the principle that all who contribute should have a voice. It is a precaution absolutely necessary to preserve the efficiency of the principle. It will, it is believed, enable all, with some exceptions, to vote for members of the board, who now pay taxes, and many others besides. It will exclude very few, if any, bona fide tax-payers. The provision as to rent-payers will at once be recognized as an extension, and not a restriction of the principle by which the vote is secured to the tax-payers, and to this extent is in the direction of universal suffrage. It admits to a voice in the government of cities a class who, though not directly tax-payers, appreciably feel the burdens of taxation.

The precaution of specifying the amount of tax has not been applied to the smaller cities. In this omission we have been moved by the consideration that the temptation in these smaller communities to create voters is much less, as well as by the fact that in many

of these cities, as well as in villages where the payment of taxes is now a qualification for voting upon questions of expenditure no minimum is fixed. The additional requirement of a successive payment of taxes for two years is designed to further mark out the class of regular tax-payers, to the exclusion of those followers of some faction for whom a tax may be paid in order to make them voters at a special election.

2. That feature of this board which limits the annually outgoing members to one-third is designed to secure the possession of that knowledge of details so necessary to the successful administration of financial concerns, and which can be acquired only by actual experience.

3. The provisions respecting this board are designed to be self-executing. Further legislation will indeed be required for the adoption of a suitable system of registration, and for other purposes. But it is believed to be expedient that in case the plan should be adopted by the people it should go into operation without awaiting the aid of legislation. To accomplish this result, it is necessary that the number of members should be, in the first instance, determined; but experience may show that the views of the commission as to numbers, may not, in all instances, best suit the public needs, and power is, therefore, reserved to the Legislature to change the numbers.

#### *Section 6. Principal Function of the Board of Finance.*

The fruitful sources of much, if not the most, of our municipal debts are: First, the failure to impose a tax levy sufficient to answer contemplated purposes. Second, the failure to collect the taxes imposed. Third, the incurring of obligations without any appropriations applicable to these payments. The uniform result of each of these practices is the accruing of a distinct catalogue of arrears followed by the specious resort of funding by an issue of bonds. Irregular expenditure, extravagant expenditure, and debt are inseparable companions. This section has been carefully elaborated to prevent both extravagance and debt, by checking the tendencies or first approaches to them.

1. It requires an estimate to be made by the board before the beginning of each financial year of the aggregate amount of money necessary to be expended during the year, and to be supplied by the general unappropriated revenue of the city, if any, and by taxation. All such moneys and no others are subject to appropriation.

The board is required to specify the objects and purposes for which the estimated sums are necessary, and to appropriate the whole of them. This method is designed to secure, beforehand, a full provision for the results of the city, and nothing more. It makes provision for no surplus. The existence of any surplus is a temptation to irregular and excessive expenditure.

2. To insure a full provision, the board is required to include in these estimates sums sufficient to satisfy every legal obligation, and the most prominent of these are enumerated.

3. The next requisite is to secure the raising of the money. This is accomplished by deducting from the aggregate amount required to be expended all general revenue receivable from other sources than taxation, and requiring the residue to be raised by taxation.

4. The next step is to insure the collection of the amount directed to be raised by tax. There must always be deficiencies here, and it is essential that full provision be made to cover them. These deficiencies may arise in these ways: First, by failure to collect the taxes on personal estate. To meet this the board is required to treat all such taxes of the previous year as may not have been collected as uncollectible, and to re levy the whole deficiency thus caused. Second, by failure to collect the taxes on real estate. These taxes are, in general, fully secured, both as to principal and interest, by the lien on the property taxed, and will, sooner or later, be paid in full. So far as they are thus fully secured there is no danger of arrears. The liberty allowed to anticipate these collections by the temporary borrowing of money on revenue bonds or certificates, if prudently guarded, leads to no abuse. The taxes, as they come in, extinguish both the principal and interest of the bonds. But, in certain cases, taxes may be erroneously assessed and omissions made, and rebates on payments in advance will lead to some failure to bring the receipts of the tax levy up to its nominal amount. The board is required each year to find the amount of such deficiencies for any preceding year, and cause these to be relieved.

5. Unforeseen emergencies. Inasmuch as the policy of having no unappropriated surplus in the treasury requires that the whole amount of the contemplated expenditure should, at the outset of the year, be appropriated to the various objects and purposes of the government, in case any unforeseen calamity should absolutely require the expenditure of money for other purposes, there would be no fund to resort to. There are two modes of meeting such a contingency. One is by giving authority to borrow which increase by exactly the sum borrowed, the amount of actual expenditure. The other is by calling upon the board to cut down some appropriations already made, where the objects are not of such immediate and pressing necessity, and apply the sums thus released to the new emergency. The objects thus postponed could be fully met the next year. The commission prefers the latter method. The former mode would tend to insufficient original appropriations in the beginning of the year. The disposition in such cases always is to make the tax levy appear as small as possible, and the liberty to borrow during the year in case of an emergency, would encourage the practice of treating many things as emergencies, which should have been contemplated at the start; and thus the amount of the tax levy originally ordered would fail of being what it should be—the full measure of the burden to be imposed. We think the provision requiring the unanimous consent of the board, and the approval of the mayor to any transfers of appropriations, will be a guaranty against abuse. As the occurrence for such transfers is the existence of some extraordinary emergency which could not be foreseen, a fictitious refusal of a single member need not be apprehended.

6. In matters of such importance as the expenditure of money, the inclination should be toward restraint. It seems prudent, therefore, to require a two-thirds vote for such item.

7. The other provisions of this section carry their own explanation.

### *Section 7. Restriction on Debt.*

This section is the necessary supplement to the system of order and economy contained in section 6. Similar provisions are now to be found in most city charters. They are absolutely essential to the prevention of extravagance and debt.

Without such provisions the whole financial system is at the mercy of the heads of departments. Contractors must thoroughly understand that the powers of these agents to charge the public are limited. To prevent cases of hardship provision should be made whereby the fact whether an unexpended appropriation exists may be duly certified. Such provision is the proper subject of a law.

### *Section 8. Local Works and Improvements.*

This section deals with local works and improvements, so far as it is expedient to deal with them by constitutional provisions. It would be quite desirable in many respects to have a law, uniform in its operations, relative to taking lands for public purposes, and also in relation to the expense of opening, regulating and paving streets, constructing sewers, etc. The framing of such a law requires, however, a careful consideration of the varying conditions existing in different cities, and the representatives of the several cities should be heard upon the question. This commission have not the powers requisite to compel the necessary information. They can deal only with the general principles. The section aims at the following objects:

1. To remove all immediate interference by the Legislature in these local works. It is here that such interposition has been most fruitful in extravagant expenditure and municipal debt. That private individuals interested in developing their own property, or contractors seeking profitable jobs, should be able to secure against the will of the people of a locality a mandate for the execution of expensive local works, often miscalled improvements, and to charge the expense upon property owners, vainly struggling to resist the imposition, is a not infrequent feature of recent legislation. Such practices should not be permitted. We have endeavored to place this branch of administration upon what is believed to be the just principle, namely, that those who pay for the work should have a voice in determining whether it should be undertaken. The initial steps in ordering improvements are, as heretofore, to be taken by the aldermen. The possible cases are three in number, and the principle above mentioned is applied as follows:

*First.* When the work is to be paid for by the city at large, the board of finance represents the body of contributors to it, and the assent of that board is required.

*Second.* When it is to be paid for by special assessments upon property supposed to be benefited, the assent of a majority in interest of the owners of such property is requisite.

*Third.* When it is to be paid for partly by the city at large and partly by special assessments upon property benefited, both such consents are requisite.

2. Another provision of this section is designed to preserve and, at the same time, to regulate the power of the Legislature to impose special charges upon cities for purposes other than local. The object here is to leave, according to the present policy of the State, the business of providing for such objects as the support of the poor, maintaining a sufficient police, enforcing the local administration of justice, supporting schools, etc., in the hands of the people of the localities. But these objects are not purely local. The people of the whole State have an interest in them; and it is the function of the central authority to secure their just accomplishment. The supervisory function of the State is therefore preserved, and it may itself, in case of need, assume the control of these branches of the administration and charge the expense on the localities. Such an emergency, however, not likely to occur, may reasonably require to be evidenced by a two-thirds vote.

#### *Section 9. Further Restrictions on Debt.*

Other provisions of our plan are aimed to prevent the creation of those debts which may be called involuntary, because they arise, not from direct design, from a loose and irregular financial administration. The incurring of debts in other ways than by borrowing money has already been prohibited by those provisions preventing the incurring of obligations in the ordinary course of administration, unless there is an existing appropriation sufficient to satisfy them. Borrowing money is here particularly dealt with.

It is allowed for the purpose of anticipating revenue. No evil can come from this permission, if the methods provided by section six for securing the full collection of every tax levy are carried out. The revenue bonds or certificates will be extinguished, principal and interest, by the taxes as they come in; and as no taxes can remain permanently uncollected, no revenue bonds can remain permanently outstanding.

Borrowing money for other purposes is absolutely prohibited, except in rare instances, and under such conditions and safeguards as will effectually prevent any burdensome accumulation of debt. These conditions and safeguards are so explicit as to need little explanation. The provisions requiring an annual contribution of ten per cent to a sinking fund is of great importance. The present generation is disposed to regard needed improvements as designed more for posterity than for themselves, and thus to rid itself of much which ought to be the subject of annual expenditure. This tendency we have endeavored to check by this provision.

*Section 10. Change in the Organization of City Governments.*

Large powers being still possessed by the Legislature in reference to the frame-work of city governments, it is very important to prevent those sudden enactments which are frequently allowed, in the press of legislative business, to pass without sufficient consideration. Sudden legislation is apt to be mischievous, and often has its origin in unworthy and merely personal motives. If immediate action is really demanded for the public welfare, the local governing bodies will be the first to ask for it. Proposed laws, for which they do not ask, must be of a questionable character. It is very suitable that upon such measures the judgment of two successive Legislatures should be had.

PROPOSED AMENDMENTS OF THE CONSTITUTION IN AID OF THE GENERAL PLAN.

Besides the additional constitutional article proposed and explained as above, the commission recommend as necessary, in order to give full effect to the existing provisions of the Constitution in harmony with the requirements of the new article, an amendment of the twenty-second section of article three. This section, as it now stands, is as follows:

“§ 22. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen.”

The city of New York is the only city whose boundaries are co-terminous with those of a county. As the law now stands the functions of boards of supervisors in respect to that city are conferred upon the board of aldermen. This is well enough, except in those particulars which involve expenditure; and those are quite important. The existence of a separate authority in the board of aldermen to subject the people to expense under the name of county charges would be wholly inconsistent with the scheme of the board of finance. The authority of this board should extend to all matters which form the subject of expenditure. The Commission, therefore, recommend that the twenty-second section of the third article of the Constitution should be amended as to stand and be read as follows:

§ 22. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the board of aldermen thereof, *except such duties and powers as involve the making of contracts, procuring supplies, or creating, auditing, or allowing county charges, all which duties and powers, whether now existing or hereafter to be created, shall be exercised and performed exclusively by the board of finance.*

Another additional amendment is designed to remove a supposed constitutional impediment in the way of the adoption by the Legislature of a plan calculated to test the merits of what is known as minority representation.

In respect to this plan the commission remark that there was too great diversity of opinion in their body as to the expediency of the adoption of the principle itself, which would of course have been intensified in recommending any special scheme from among the many which have, for various reasons, commended themselves to the judgments of those conversant with the subject. In any event, the ideas underlying this question are as yet too novel and too little understood by the public to justify their enforcement by constitutional amendment.

It is suggested, however, that the Constitution, at present, does not permit the trial of the experiment of minority representation in the local government of cities, and that even the very crude attempts in this direction already made in this State may, for this reason, prove invalid. In view of the confident opinions of many distinguished writers that this scheme will furnish substantial relief against many existing mischiefs, and as it is not inconsistent with the plan recommended by this commission, while we are not united in an approval of these opinions, we do not think it wise that the Legislature should be debarred from making the experiment.

It is therefore recommended that a concurrent resolution be passed for the subinission to the people of a proposition so to amend the first section of the second article of the Constitution, that it shall stand and be read as follows:

SECTION 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the district of which he shall at the time be a resident, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people, and upon all questions which may be submitted to the vote of the people; *but the Legislature may provide that elections for members of city boards shall be so regulated as to give to minorities a proportionate share of representation therein.* Provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

#### CONCLUDING REMARKS.

The submission of this report completes the task assigned to the commission. The amount of time, labor and thought bestowed upon the work are not to be measured by the mere text of the amend-

ments to the Constitution which are proposed, or by the summary of views and conclusions therewith presented. The whole system of municipal establishments, its nature, its objects, its defects, the experiments to which it has been subjected, the present condition which it exhibits, and the means of its improvement, have been the subject of continuous and earnest investigation, and have been discussed at length, in written papers and orally, at the regular meetings of the commission. Many subjects which have received a large degree of attention are omitted as not necessary, in view of the results arrived at. No small part of the labor has consisted in reducing the text of the proposed amendments to the smallest possible compass while embracing within it all the elements essential to completeness. The force and meaning of the particular terms employed, as well as the scope and purport of every general provision have been carefully considered; and while it is impossible to present by reports of the debates and deliberations the course of the arguments and decisions of the commission, in the same manner as those of more popular bodies, it is none the less true that they have covered the wide range which it was necessary to explore in order to arrive at the results embodied in this report. In these results the undersigned members of the commission concur; and they may be permitted to close their labors with the expression of the hope that the plan which they propose, if it shall be approved by the Legislature and adopted by the people, may secure those public benefits which have been the sole aim of the commission.

All of which is respectfully submitted.

WM. M. EVARTS,  
JAMES C. CARTER,  
OSWALD OTTENDORFER,  
WM. ALLEN BUTLER,  
JOSHUA M. VAN COTT,  
E. L. GODKIN,  
JOHN A. LOTT,  
SIMON STERNE,  
HENRY F. DIMOCK,

*Commissioners.*

Dated NEW YORK, *February 24, 1877.*

I concur in the results of the foregoing report except as to qualifications of voters for the board of finance, and the powers of that board to appoint the law and financial officers. I think the qualifications of voters for the large cities should be the same as those prescribed for the smaller cities, and that the board of finance should have no appointing power.

SAMUEL HAND.



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